IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 43 OF 2003

1. Smt. Maria do Carmo Souza
   e Fernandes, major, married,
   service, and her husband

2. Shri Jose Antonio Bernardo
   Fernandes, major, married,
   both r/o House No.315,
   Gaonkar Vaddo, Batim, Ilhas,
   Goa. ... Petitioners

Versus

1. Smt. Maria Fatima Filomena
   Gomes e Vaz @ Maria Gomes,
   major, married, housewife; and
   her husband,

2. Shri Oliveira Martinho Vaz,
   major, married,
   Both r/o Aquem, Margao, Salcete,
   Goa,

3. Smt. Bernardetta D'Souza,
   major, married, housewife,
   wife of,

4. Shri Oscar Martins, major,
   married, service,

5. Shri Antonio D'Souza,
   major, unmarried,

6. Shri Mario D'Souza, major,
   unmarried,

7. Kum. Louella D'Souza, minor,
   unmarried,

8. Loyd D'Souza, minor,
   represented by their
   Guardian mother Smt. Norma
   Lobo D'Souza,

9. Smt. Norma Lobo D'Souza,
   major, widow,
   all r/o Seraulim, Salcete,
   Goa,

10. Smt. Maria Belmira Almelia
    das Dores do Rosario
    D'Souza, major, widow,

11. Bernardette Javam Rodrigues, major, unmarried,

12. Shri Ajay Antonio Rodrigues, major, unmarried,

13. Shri Avilash Pobres Rodrigues, major, unmarried, all r/o at House No.261, Calwaddo, Cavelossim, Salcete, Goa,

14. Shri Pascoal Bernadette do Rosario e Souza, major, married, service and his wife,

15. Smt. Irene Falcao de Souza, major, married, both r/o Colmorod, Navelim, Salcete, Goa,

16. Shri Arthur Elizabeth do Rosario D'Souza, major, married, and his wife

17. Smt. Flavia Dias e Souza, major, married, housewife, both r/o Seraulim, Duncolim, Salcete, Goa,

18. Smt. Joana Anunciacao do Rosario Souza e Coutinho, major, housewife, widow,

19. Shri Herbert Coutinho, major, unmarried, service,

20. Shri Leonardo Coutinho, major, married, service, and his wife,

21. Smt. Jaya Coutinho, major, married, housewife,

22. Smt. Saira Coutinho e Martins, major, married, housewife and her husband,

23. Shri Longuinho Martins, major, married, service, all r/o Utorda, Salcete, Goa,

24. Smt. Melania Coutinho e Rodrigues, major, married,

wife of

25. Shri Conrad Rodrigues,
major, married, service,
both r/o Baina, Vasco Goa,

26. Smt. Bernandina Maria da
Graca Gomes de Oliveira,
major, married, housewife,

27. Shri Agnelo Decio
Lamartinho Gomes de Oliveira,
major, service,

28. Kum. Sonia Maria de Conceicao
Irene Rosa Gomes de Oliveira,
major, unmarried, service,

29. Kum. Maria Helena Gomes
de Oliveira, major,
unmarried, service,

30. Kum. Sara Maria Gomes de
Oliveira, major,
unmarried,

31. Kum. Maria Fatima Gomes
de Oliveira, major,
unmarried,
all r/o Rua Candido dos
Reis, Lote A 4-B,
Bairro de Mina, Amadora
2700, Portugal. ... Respondents.

Shri M. S. Sonak, advocate for the petitioners.

Shri M. S. Usgaokar, Senior Advocate with Shri Sudin Usgaokar, advocate for respondent nos. 1 and 2.

CORAM : V. G. PALSHIKAR, J.

DATE : 9th October, 2003.

ORAL ORDER

By this petition the petitioners have impugned an Order passed by the learned trial Judge rejecting the application of the plaintiffs for amendment of the plaint.

2. The amendment was sought to raise certain

contentions which came to the fore after filing of the written statement by some of the defendants. The amendment is disallowed on the ground that the facts to be added raise issues which are apparently barred by limitation. An issue of limitation has to be decided on certain facts and not apparent facts or apprehensions. The interests of justice therefore, require to avoid any further delay in the matter, that the amendment is allowed.

3. The petition is consequently allowed. Plaintiffs to make the amendment within two weeks. The defendants to make amendment to the written statement, if so advised, in two weeks thereafter and the matter should be proceeded with expeditiously.

Authenticated copy of the order be given to the learned counsel for the petitioners.

V. G. PALSHIKAR, J.

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